

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1326 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DHIRAJLAL LALJIBHAI CHOKSHI

Versus

PATHAK SHANTIKUMAR KESHAVLAL

Appearance:

MR NIHAL JOSHI for Petitioners
MR NK MAJMUDAR for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/12/1999

ORAL JUDGEMENT

1. Heard learned counsel for the parties.
2. The application filed by the plaintiffs
petitioners for amendment of the plaint was came to be
rejected under the impugned order of the court below

which gives rise cause to the petitioners to file this Civil Revision Application in this court.

3. The application has been filed on 6.5.1994. The suit is filed on 17.11.1980. Learned trial court has observed that, it is not the case of the plaintiffs petitioners that the defendant put construction of the permanent structure or made alteration in the suit premises after filing of the suit. It is not the case where this court has to finally decide on the question whether such amendment should have been permitted to be made in the plaint by the plaintiffs - petitioners or not, otherwise it will prejudice rights of the petitioners to challenge the interlocutory order in case ultimately they failed in the suit, where they propose to challenge the judgment and decree of the trial court in the appeal by raising the ground against this order in the memo of the appeal. In the facts of this case, it cannot be said that the learned trial court has committed any material irregularity in exercising its jurisdiction in passing of the impugned order which calls for interference of this court. Otherwise also, for the reasons aforesaid in case the order of the trial court is allowed to stand, it will not occasion any failure of justice nor it will cause any injury to the petitioners.

4. In the result, this Civil Revision Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.

(S.K.Keshote,J.)
(pathan)